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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,356	03/12/2004	Joseph C. Perin	0813798.00062	7946
545	7590	06/16/2009		
IP Patent Docketing K&L GATES LLP 599 Lexington Avenue 33rd Floor New York, NY 10022-6030			EXAMINER COLLINS, MICHAEL	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 06/16/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/800,356

Applicant(s)

PERIN ET AL.

Examiner

MICHAEL K. COLLINS

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-64 is/are allowed.
- 6) ☒ Claim(s) 65-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicants' arguments, see **REMARKS**, filed 4/17/2009, with respect to claims 17-64 have been fully considered and are persuasive. The rejection under 35 U.S.C. 102(b) or 103(a) of claims 17-64 has been withdrawn.
2. Applicants' arguments with respect to claims 65-78 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 65-73 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over *Stoken et al.* (USP 5,915,588).

Regarding claim 65, Stoken et al. disclose an instant lottery ticket vending machine comprising:

- a controller (see Figure 6 and 16);
- a customer input device (66);
- at least one storage unit (48) containing instant lottery tickets (12);
- an instant lottery ticket dispenser (54,56) in communication with the controller, the controller independently controlling the instant lottery ticket dispenser to dispense an instant lottery ticket from the at least one storage unit in response to a customer request to purchase an instant lottery ticket received by the customer input device; and
- an alarm produced by the controller in response to the deterioration of a state of the instant lottery ticket vending machine (see column 23 lines 9-14).

Regarding claim 66, Stoken et al. disclose the instant lottery ticket vending machine of claim 65, wherein the instant ticket dispenser includes

- a lottery ticket separator in communication with the controller, the lottery ticket separator configured to receive from the at least one storage unit an instant lottery ticket joined to a continuous strip of instant lottery tickets and to separate the lottery ticket from the continuous strip of instant lottery tickets.

Regarding claim 67, Stoken et al. disclose the instant lottery ticket vending machine of claim 65, wherein the deterioration of the state of the instant lottery ticket vending machine occurs when the number of instant lottery tickets stored in the at least one storage unit is less than a predetermined threshold.

Regarding claim 68, Stoken et al. disclose the instant lottery ticket vending machine of claim 67, wherein the predetermined threshold is greater than one and less than the maximum number of instant lottery tickets which can be stored in the at least one storage unit.

Regarding claim 69, Stoken et al. disclose the instant lottery ticket vending machine of claim 65, further comprising:

- a network interface in communication with the controller, the controller transmitting the alarm via the network interface.

Regarding claim 70, Stoken et al. disclose the instant lottery ticket vending machine of claim 65, further comprising:

- a cash acceptor (50) in communication with the controller, and
- wherein the deterioration of the state of the instant lottery ticket vending machine occurs when the total value of cash stored by the cash acceptor exceeds a predetermined threshold.

Regarding claim 71, Stoken et al. disclose the instant lottery ticket vending machine of claim 70, wherein

- the predetermined threshold is less than the maximum amount of cash which can be stored in the cash acceptor.

Regarding claim 72, Stoken et al. disclose the instant lottery ticket vending machine of claim 65, further comprising:

- a bill acceptor (50) in communication with the controller, and

- wherein the deterioration of the state of the instant ticket vending machine occurs when the number of bills accepted by the bill acceptor exceeds a predetermined threshold.

Regarding claim 73, Stoken et al. disclose the instant lottery ticket vending machine of claim 72, wherein

- the predetermined threshold is less than the maximum number of bills which can be stored in the bill acceptor.

6. Claims 74-78 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Burr et al. (USP 4,982,337).

Regarding claim 74, Burr et al. disclose a lottery ticket dispensing system for dispensing instant win lottery tickets, comprising:

- a lottery ticket vending machine (14) including
 - a controller (40,150), and
 - at least one storage unit (224) containing instant win lottery tickets; and
- a host computer (12) located at a different geographic location than the lottery ticket vending machine, the host computer in communication with the controller, the controller sending a fault message towards the host computer when a fault occurs in the lottery ticket vending machine (see column 16 lines 10-40).

Regarding claim 75, Burr et al. disclose the system of claim 74, further comprising:

- a separator unit configured to separate an instant win lottery ticket (50) from a continuous strip of instant win lottery tickets stored in the at least one storage unit (see Figure 5).

Regarding claim 76, Burr et al. disclose the system of claim 74, wherein the fault is having fewer than a predetermined number of lottery tickets stored in the at least one storage unit.

Regarding claim 77, Burr et al. disclose the system of claim 74, further comprising:

- a cash acceptor, the cash acceptor in communication with the controller, and wherein the fault is having more than a predetermined value of cash in the cash acceptor (see column 6 lines 26-29).

Regarding claim 78, Burr et al. disclose the system of claim 74, further comprising:

- a bill acceptor, the bill acceptor in communication with the controller, and wherein the fault is having more than a predetermined number of bills in the bill acceptor (see column 6 lines 26-29).

Allowable Subject Matter

7. Claims 1-64 are allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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